

**MR. BEN SPEAKTHUNDER, PRESIDENT OF THE FORT BELKNAP
COMMUNITY COUNCIL**

TESTIMONY BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

MAY 22, 2002

Good morning, I am Benjamin Speakthunder, President of the Fort Belknap Community Council; a member of the Assiniboine Nation of the Fort Belknap Indian Reservation. I am extremely honored to be able to address this committee on a very important and complex issue that we in Indian country throughout the United States face on a daily basis. The issue that I am speaking about impacts ALL members of our Tribes, both the Assiniboine and Gros Ventre of Fort Belknap, and other Nations and that is the “COMPLICATED HEIRSHIP” otherwise know as Undivided Interest.

With respect to S-1340 “INDIAN PROBATE REFORM ACT OF 2001” I offer the following comments on behalf of the Fort Belknap Indian Reservation. Neither the General Allotment Act (Dawes Act) nor the individual Allotment Acts contain any provisions for Rights-Of-Way on or across other lands for access to other lands. We feel that this should be one of the points in advising persons who make wills to consider reservation of rights-of-way on and across their lands. In addition, title status reports need to be corrected to reflect the right-of-ways that currently exist.

Section 232 RULES RELATING TO INTESTATE INTERESTS AND PROBATE (b) (1) (B) OTHER HEIRS: Include Great-grandchildren and other “DIRECT LINEAL DESCENDANTS” to be included in other appropriate sections. In addition, the current definition of “Indian” must be repealed. This definition will harm Indian Country, cause jurisdictional problems, and cut off far too many people who are Indian, yet not enrolled for a variety of reasons. A restrictive definition of Indian will reduce trust landholdings. Defining who can inherit is a tribal authority and needs to be determined by each respective tribal community.

In order for true consolidation to take place we recommend that a provision be included within S. 1340 that would repeal the joint tenancy provision within the current Indian

Land Consolidation Act. Creation of joint tenancy with right of survivorship for 5% or less interests prevents these interests from being passed to eligible heirs, namely children.

With respect to the intent of the “INDIAN LAND CONSOLIDATION ACT” AND SUBSEQUENT AMENDMENTS, a Tribal Probate Code duly passed and adopted by a Tribal Government should supercede not only State Law, but FEDERAL LAW as well as it may apply to that Reservation.

The Bureau of Indian Affairs has a “LAND CONSOLIDATION PROGRAM” funded by Congress that is implemented, to our knowledge, with Tribes in the Minnesota Region. As we understand this program, the B.I.A. purchases, on behalf of the Tribe, shares, preferably 2% or less, from “willing sellers”. These shares are held in Trust by the United States on behalf of the Tribe until the rental income from the share refunds the purchase price of the share acquired. This means that for each share acquired, an Individual Indian Money (IIM) account must be maintained to account for the income and repayment of that share. To me, and others, this is not true consolidation.

True consolidation is when the share is acquired and the former owner’s account is closed for that tract. If individuals, either co-owner of stranger, or the Tribe is provided the financial backing to acquire this share and other shares in a given tract of land, then the tract is truly consolidated for the purpose of reducing the administrative costs of the Federal Government.

Fort Belknap was Allotted by the Act of March 3, 1921 (41 Stat. 1355) whereby 1,188 members of the Assiniboiné and Gros Ventre Tribes received an allotment of land varying from 400 to 520 acres of land depending upon the classification of the land allotted (ie: pasture, irrigated, homestead, etc.). As of this date the number of individual owners has increased from 1,188 to in excess of 4,000 and the number of tracts maintained by the B.I.A. has increased from 1,189 to in excess of 2,970 tracts. There are 2,273 tracts in Individual ownership and 699 Tribal ownership tracts with a total of 18,731 individual interests. In addition, there are 1,931 Mineral tracts in Individual ownership and 44 Tribal ownership mineral tracts with a total of 24,120 individual interests.

At Fort Belknap, we have had a land acquisition program since the early 1930’s and have re-acquired a little less than one-half (1/2) of the allotted lands within our reservation. Currently, approximately 47% of the Reservation is in Individual Trust ownership, 43% is in Tribal Trust ownership and the remaining 10% is Fee patent, to include 19,000+ acres of State School lands.

On behalf of the enrolled members of the Fort Belknap Indian Community (Reservation) I urge the Congress of the United States to partially fulfill their Trust Responsibility by funding this innovative and worthwhile project to accomplish true LAND CONSOLIDATE at Fort Belknap. Upon completion of this project, which we estimate will take from seven (7) to ten (10) years with annual appropriations of from \$3,000,000 to \$5,000,000 we will be able to accomplish our goal and have in place a program that can be replicated

throughout Indian Country so other Tribes and Individuals can benefit. I would like to submit the Ft. Belknap Land Consolidation Plan for the record. Additionally I would like to refer to Mr. Arvel Hale's affidavit submitted to this Committee. Mr. Hale, former chief Appraiser for the Department of Interior has designed a land data model which provides for appraisals, purchase and sale of fractionated interests. This model could be applied within the Ft. Belknap Land Consolidation Plan.

Respectfully,

Benjamin Speakthunder, President
Fort Belknap Community Council